



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

PUBLIC DEFENDER.

I have read with much interest the letters written by Messrs. Mayer C. Goldman and Henry A. Forster, Secretary of the Committee on Law Reform of the Association of the Bar of the City of New York, on the question relating to the necessity and advisability of creating the office of public defender in this city. Mr. Goldman's arguments have appealed to me (this Journal, September, 1915). I shall ask you, as a layman, to allow me to offer the following remarks in open espousal of this new reform.

The creation of the office of public defender, as asseverated by its most prominent advocates, is necessary because:

1. The poor have to prove their innocence.
2. They are given the third degree.
3. They have to be satisfied with inexperienced or lax appointees of court.
4. They plead guilty through ignorance or fear when they are not guilty, or they plead guilty of a greater offense than they should.
5. "Wise criminals of many priors," on the other hand, plead guilty to a minor offense and get a light sentence in return.
6. A public defender would give a speedy trial.
7. He would give an adequate defense.
8. A public defender would not "undermine" the work of the district attorney nor secure acquittals regardless of the merits of the case.
9. The disparity between the rich and the poor would be wiped out.
10. Unmeritorious appeals would not be taken when public defenders represent most or all persons.
11. The poor with meritorious cases will be given a chance to appeal.
12. The expense of the administration of the public defender office will pay for itself, since there will be a saving in other ways, as in shorter trials, pleas of guilty, shorter waits in jail awaiting trial.
13. But if the expense of the office were as great as that of the public prosecutor, the state could well sustain the cost, because of the benefit to the individual, to the law, and to society.

Mr. Goldman reasonably claims that the following benefits will accrue from the adoption of the office of public defender (Fifth Report, Law Reform Committee, pp. 11-12):

1. That the rights of defendants in criminal cases would be better preserved.
2. That their cases would be more honestly and ably presented.
3. That there would be fewer unscrupulous and perjured defenses.
4. That our prisoners, poor or rich, would be placed upon a true equality before the law.
5. That the truth in any trial could be more satisfactorily established.
6. That there would be less opportunity for disreputable attorneys to obtain delays in the trials of cases in order to extract fees from an unfortunate defendant, or from his relatives or friends.
7. That the trials in criminal cases would be expedited.
8. That there would be fewer pleas of "guilty" by prisoners at the instigation of attorneys who do not care to be burdened with trials in cases where they receive no fee.
9. And that the tone of the criminal bar and of the criminal courts would be uplifted.

Mr. Henry A. Forster asks the following questions (see *Jour. of the Am. Inst. of Criminal Law and Criminology*, Sept., 1915, p. 379) :

"Would it be for the public interest to give every person with a fancied grievance, every professional litigant, and every sorehead the legal right to the free prosecution of any and every civil action they might care to bring?"

"Would it be for the public interest to give every person desiring to hinder or delay his creditors the legal right to the free defense of any and every civil action against him?"

According to the above, the questioner assumes the position that the office of a public defender would be the medium through and by which justice would be hindered; in other words, it would be an agency where "every person with a fancied grievance, every professional litigant and every sorehead" would find shelter or refuge. Both of these questions display Mr. Forster laboring under the perverse impression that a public defender will lack the mediocre intelligence, insight, astuteness and sensibility required to ascertain whether the applicant comes within his classes above specified. Such a condition is out of the question.

Now, as to the Legal Aid Society, which is engaged in the protection of the poor, thereby according to the opponents of the new reform, fulfilling the functions of the office of public defender. The question is, whether this society is adequately financed so that it can fulfill

these functions without hindrance. In answer to this, there is no better authority to consult than the last annual report (1914) of that society, where, on page 4, we find the following:

"The condition of the treasury of the society is as yet not satisfactory. Allen Wardwell, Esquire, became treasurer early in 1914, and it is due to his special efforts that the society has not as yet been required to close the doors of more than one or two of its branches. However, it may be necessary to do so at an early date."

The following quotations from the report are of interest:

"An effort was made to induce the Board of Estimate and Apportionment of New York City under the provision of the act of the Legislature of 1907, which provides for an allowance to the society for an amount not exceeding \$25,000.00 per annum, to make a proper allowance to the society in the year 1914, none having been previously requested. But, after considering our appeal, said board declined to aid us."

The report continues:

"Recently a new burden was placed upon Mr. McGee (attorney in chief of the society), he being asked to assist the district attorney in working out the settlement of some 13,000 claims against five furniture lottery establishments.

"It is a pity that when the society is thus induced to give its aid in straightening out the claims of so many thousand people, the Board of Estimate and Apportionment should have refused a corresponding support. One should think that the great city of New York would be unwilling to accept charitable work at our hands without making at least an effort to help cover our expense, especially in a year in which it was most difficult to raise money from private contributors."

Are we not to be looked upon with shame and scorn when the great city of New York refuses to aid in the maintenance of the society which protects our poor with financial contributions from private sources, especially when we read in the report above quoted from, of a donation of \$500.00 from a Dr. Wilhelm Schmidt of Wilhelmshe, Cassel, Germany! I don't believe it is just for the few persons who voluntarily contribute for the upkeep of that society to shoulder the burden. As has been said before, the equal protection of the law is a public responsibility, and all people as a whole are responsible for the element seeking legal charity. Experience has shown that a public defender serves both the state and the individual, and not the individual only.

FRANCIS SAVONA, 251 E. 109th St., New York City.